(b) Parts of a requested record may be exempt from disclosure under the FOIA. The proper DA official may delete exempt information and release the remainder to the requester. The proper official also has the discretion under the FOIA to release exempt information; he or she must exercise this discretion in a reasonable manner, within regulations. The excised copies shall reflect the denied information by means of Blackened areas, which are Sufficiently Blackened as to reveal no information. The best means to ensure illegibility is to cut out the information from a copy of the document and reproduce the appropriate pages. If the document is classified, all classification markings shall be lined through with a single black line, which still allows the marking to be read. The document shall then be stamped ''Unclassified''.

[56 FR 48932, Sept. 26, 1991, as amended at 56 FR 56010, Oct. 31, 1991]

§ 518.23  Public domain.

Nonexempt records released under the authority of this part are considered to be in the public domain. Such records may also be made available in Components' reading rooms to facilitate public access. Exempt records released pursuant to this part or other statutory or regulatory authority, however, may be considered to be in the public domain only when their release constitutes a waiver of the FOIA exemption. When the release does not constitute such a waiver, such as when disclosure is made to a properly constituted advisory committee or to a Congressional Committee, the released records do not lose their exempt status. Also, while authority may exist to disclose records to individuals in their official capacity, the provisions of this part apply if the same individual seeks the records in a private or personal capacity.

§ 518.24  Creating a record.

(a) A record must exist and be in the possession and control of the Department of Defense at the time of the search to be considered subject to this part and the FOIA. Mere possession of a record does not presume departmental control and such records, or

identifiable portions thereof, would be referred to the originating Agency for direct response to the requester. There is no obligation to create not compile a record to satisfy an FOIA request. A DoD Component, however, may compile a new record when so doing would result in a more useful response to the requester, or be less burdensome to the agency than providing existing records, and the requester does not object. Cost of creating or compiling such a record may not be charged to the requester unless the fee for creating the record is equal to or less than the fee which would be charged for providing the existing record. Fee assessments shall be in accordance with subpart F of this part.

(b) With respect to electronic data, the issue of whether records are actually created or merely extracted from an existing database is not always readily apparent. Consequently, when responding to FOIA requests for electronic data where creation of record, programming, or particular format are questionable, components should apply a standard of reasonableness. In other words, if the capability exists to respond to the request, and the effort would be a business as usual approach, then the request should be processed. However, the request need not be processed where the capability to respond does not exist without a significant expenditure of resources, thus not being a normal business as usual approach.

(c) Requested records, or portions thereof, may be located at several Army offices. The official receiving the FOIA request will refer it to those other offices for a direct reply if—

(1) The information must be reviewed for release under the FOIA; and

(2) Assembling the information would interfere materially with DA operations at the site first receiving the request.

[56 FR 48932, Sept. 26, 1991, as amended at 56 FR 56010, Oct. 31, 1991]

§ 518.25  Description of requested record.

(a) Identification of the record desired is the responsibility of the member of the public who requests a record. The requester must provide a description of the desired record, that enables